

**Executive Summary – Enforcement Matter – Case No. 44076**

**City of Kendleton**

**RN102844412**

**Docket No. 2012-0932-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Kendleton WWTF, located approximately 1,500 feet east of the intersection of Farm-to-Market Road 2219 and U.S. Highway 59, and 1,000 feet south of U.S. Highway 59, Fort Bend County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** October 25, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$10,657

**Amount Deferred for Expedited Settlement:** \$2,131

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$361

**Total Due to General Revenue:** \$8,165

Payment Plan: 23 payments of \$355 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** March 27, 2012

**Executive Summary – Enforcement Matter – Case No. 44076**  
**City of Kendleton**  
**RN102844412**  
**Docket No. 2012-0932-MWD-E**

**Date(s) of NOE(s):** April 11, 2012

***Violation Information***

1. Failed to comply with permitted effluent limitations. Specifically, the Respondent reported a dissolved oxygen grab sample concentration value of 3.98 milligrams per liter ("mg/L") for the monitoring period ending July 31, 2011. The dissolved oxygen grab sample concentration minimum permitted limit is 6 mg/L [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010996001, Effluent Limitations and Monitoring Requirements No. 6].
2. Failed to submit the monthly discharge monitoring reports ("DMRs") for the monitoring periods ending September 30, 2011, October 31, 2011, November 30, 2011, and December 31, 2011, and the quarterly DMR for the monitoring period ending December 31, 2011 [30 Tex. Admin. Code §§ 305.125(17) and 319.1 and 319.7(d) and TPDES Permit No. WQ0010996001, Monitoring and Reporting Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 30 days:
  - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DMRs; and
  - ii. Submit all delinquent DMRs for the monitoring periods ending September 30, 2011 through December 31, 2011.
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.
- c. Within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010996001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

**Executive Summary – Enforcement Matter – Case No. 44076**  
**City of Kendleton**  
**RN102844412**  
**Docket No. 2012-0932-MWD-E**

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division,  
Enforcement Team 3, MC 169, (817) 588-5886; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** The Honorable Darryl Humphrey, Sr., Mayor, City of Kendleton, P.O.  
Box 809, Kendleton, Texas 77451-0809  
**Respondent's Attorney:** N/A



<b>DATES</b>	Assigned	16-Apr-2012					
	PCW	10-May-2012					
	Screening	1-May-2012		EPA Due			

RESPONDENT / FACILITY INFORMATION			
<b>Respondent</b>	City of Kendleton		
<b>Reg. Ent. Ref. No.</b>	RN102844412		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

CASE INFORMATION			
<b>Enf./Case ID No.</b>	44076	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-0932-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Stephen Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>		\$0	<b>Maximum</b>
			\$10,000

Penalty Calculation Section			
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<b>Subtotal 1</b>	\$1,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
<b>Compliance History</b>		47.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>
			\$470
Notes	Enhancement for seven months of self-reported effluent violations, two NOV's with same/similar violations and one NOV with dissimilar violations.		
<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>
			\$0
Notes	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>		0.0% Enhancement*	<b>Subtotal 6</b>
			\$0
<div style="display: flex; justify-content: space-between; font-size: x-small;"> <span>Total EB Amounts</span> <span>\$712</span> </div> <div style="display: flex; justify-content: space-between; font-size: x-small;"> <span>Approx. Cost of Compliance</span> <span>\$10,000</span> </div>		*Capped at the Total EB \$ Amount	
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	\$1,470
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		0.0%	<b>Adjustment</b>
			\$0
Notes			
		<b>Final Penalty Amount</b>	\$1,470
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$1,470
<b>DEFERRAL</b>		20.0% Reduction	<b>Adjustment</b>
			-\$294
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			
Notes	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			\$1,176

Screening Date 1-May-2012

Docket No. 2012-0932-MWD-E

PCW

Respondent City of Kendleton

Policy Revision 2 (September 2002)

Case ID No. 44076

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844412

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	9	45%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 47%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for seven months of self-reported effluent violations, two NOVs with same/similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 47%

Screening Date 1-May-2012  
Respondent City of Kendleton  
Case ID No. 44076

Docket No. 2012-0932-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844412

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010996001, Effluent Limitations and Monitoring Requirements No. 6

Violation Description

Failed to comply with permitted effluent limitations, as documented in a record review conducted on March 27, 2012. Specifically, the Respondent reported a dissolved oxygen grab sample concentration value of 3.98 milligrams per liter ("mg/L") for the monitoring period ending July 31, 2011. The dissolved oxygen grab sample concentration minimum permitted limit is 6 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Dissolved oxygen was evaluated to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of contaminants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the quarter containing the month of July 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer	
	Extraordinary	Ordinary	N/A	
			X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$712

Violation Final Penalty Total \$1,470

This violation Final Assessed Penalty (adjusted for limits) \$1,470

# Economic Benefit Worksheet

**Respondent** City of Kendleton  
**Case ID No.** 44076  
**Reg. Ent. Reference No.** RN102844412  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Jul-2011	1-Jan-2013	1.42	\$712	n/a	\$712

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$712





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	16-Apr-2012
	<b>PCW</b>	10-May-2012
	<b>Screening</b>	1-May-2012
	<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Kendleton
<b>Reg. Ent. Ref. No.</b>	RN102844412
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>	
<b>Enf./Case ID No.</b>	44076
<b>Docket No.</b>	2012-0932-MWD-E
<b>Media Program(s)</b>	Water Quality
<b>Multi-Media</b>	
<b>No. of Violations</b>	1
<b>Order Type</b>	1660
<b>Government/Non-Profit</b>	Yes
<b>Enf. Coordinator</b>	Stephen Thompson
<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0
<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$6,250
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	47.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,937
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Notes: Enhancement for seven months of self-reported effluent violations, two NOV's with same/similar violations and one NOV with dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$14  
Approx. Cost of Compliance \$375  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$9,187
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$9,187
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$9,187
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,837
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$7,350
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Screening Date 1-May-2012

Docket No. 2012-0932-MWD-E

PCW

Respondent City of Kendleton

Policy Revision 3 (September 2011)

Case ID No. 44076

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102844412

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	9	45%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 47%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for seven months of self-reported effluent violations, two NOVs with same/similar violations and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 47%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 47%

Screening Date 1-May-2012

Docket No. 2012-0932-MWD-E

PCW

Respondent City of Kendleton

Policy Revision 3 (September 2011)

Case ID No. 44076

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102844412

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.1 and 319.7(d) and Texas Pollutant Discharge Elimination System Permit No. WQ0010996001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit the monthly discharge monitoring reports ("DMRs") for the monitoring periods ending September 30, 2011, October 31, 2011, November 30, 2011, and December 31, 2011, and the quarterly DMR for the monitoring period ending December 31, 2011, as documented during a record review conducted on March 27, 2012.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 5

194 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$6,250

Five single events are recommended, one for each report not submitted.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$9,188

This violation Final Assessed Penalty (adjusted for limits) \$9,188

# Economic Benefit Worksheet

**Respondent** City of Kendleton  
**Case ID No.** 44076  
**Reg. Ent. Reference No.** RN102844412  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	27-Mar-2012	1-Nov-2012	0.60	\$8	n/a	\$8
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$125	20-Oct-2011	1-Nov-2012	1.04	\$6	n/a	\$6

### Notes for DELAYED costs

Estimated cost to prepare and submit the missing DMRs (\$25 per DMR), and to update the Facility's operational guidance and to conduct employee training (\$250). Dates required are the date of the record review and the date the first missing DMR was due. Final date is the projected date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$375

TOTAL

\$14

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600682371	City of Kendleton	Classification: AVERAGE	Rating: 2.15
Regulated Entity:	RN102844412	CITY OF KENDLETON	Classification: AVERAGE	Site Rating: 1.29
ID Number(s):	WASTEWATER	PERMIT		WQ0010996001
	WASTEWATER	EPA ID		TX0098949
	WASTEWATER LICENSING	LICENSE		WQ0010996001
Location:	1500 feet east of the intersection of Farm-to-Market Road 2219 and U.S. HWY 59; and 1,000 feet south of U.S. HWY 59			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	May 01, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 01, 2007 to May 01, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Stephen Thompson	Phone:	(512) 239-2558	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 05/02/2007 (587351)
- 2 05/23/2007 (587352)
- 3 06/25/2007 (587353)
- 4 08/03/2007 (604994)
- 5 08/27/2007 (604995)
- 6 10/04/2007 (627569)
- 7 11/28/2007 (627570)
- 8 11/28/2007 (627571)
- 9 01/28/2008 (676174)
- 10 06/06/2008 (680201)
- 11 03/31/2008 (694538)
- 12 03/31/2008 (694539)
- 13 05/08/2008 (694540)
- 14 03/31/2008 (694541)
- 15 06/16/2008 (715973)
- 16 08/01/2008 (715974)
- 17 11/05/2008 (715975)

18	11/05/2008	(715976)
19	11/05/2008	(715977)
20	08/31/2009	(748005)
21	03/16/2009	(754938)
22	04/16/2009	(754939)
23	01/30/2009	(754940)
24	05/06/2009	(772117)
25	03/29/2010	(794273)
26	03/29/2010	(794346)
27	06/11/2010	(845325)
28	05/31/2010	(861925)
29	08/04/2010	(868468)
30	08/30/2010	(868469)
31	10/15/2010	(870044)
32	10/27/2010	(882923)
33	11/30/2010	(889316)
34	12/30/2010	(897704)
35	02/28/2011	(910488)
36	02/24/2011	(910489)
37	03/15/2011	(917727)
38	03/19/2010	(929167)
39	03/26/2010	(929168)
40	05/07/2010	(929169)
41	03/15/2011	(929170)
42	09/16/2009	(929171)
43	09/16/2009	(929172)
44	09/16/2009	(929173)
45	11/12/2009	(929174)
46	11/12/2009	(929175)
47	11/12/2009	(929176)
48	12/18/2009	(929177)
49	01/04/2010	(929178)
50	02/16/2010	(929179)
51	09/20/2011	(936949)
52	05/20/2011	(939436)
53	06/20/2011	(946847)
54	10/11/2010	(946848)
55	07/19/2011	(954103)
56	09/02/2011	(960686)
57	09/20/2011	(966777)
58	09/20/2011	(972759)
59	03/05/2012	(983791)
60	04/12/2012	(995697)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	07/31/2007	(604995)	CN600682371
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date: 01/31/2008 (694538) CN600682371  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2008 (715973) CN600682371  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2009 (929174) CN600682371  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2009 (748005) CN600682371  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Description: Failure to provide an operative alarm on the lift station at the wastewater treatment plant. An operative visual or audible alarm is required on all lift stations to prevent unauthorized discharges of raw sewage.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Description: Failure to provide the required number of operational blowers. At the time of the inspection only one blower was present. A back up blower must be provided in case of failure.

Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
 2D TWC Chapter 26, SubChapter A 26.121(b)  
 2D TWC Chapter 26, SubChapter A 26.121(c)  
 2D TWC Chapter 26, SubChapter A 26.121(d)  
 2D TWC Chapter 26, SubChapter A 26.121(e)  
 30 TAC Chapter 305, SubChapter F 305.125(4)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 TWC Chapter 26 26.121  
 TWC Chapter 26 26.121(a)(2)  
 Description: Failure to prevent unauthorized discharge of partially treated wastewater from the plant. At the time of the investigation the ground all around the plant was covered with sludge.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
 Description: Failure to report the unauthorized discharge of sludge at the wastewater treatment plant. Any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ Regional office by phone or fax within 24 hours, and in writing within 5 days.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to maintain compliance with the effluent permit limits for total chlorine residual. At the time of the investigation the total chlorine residual of the effluent was 8.5 mg./L. The permit requires that the chlorine residual be maintained between 1.0 mg/L and 4.0 mg/L.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to annually calibrate the secondary flow measuring device. The flow meter calibration records were not available at the time of the investigation and the calibration sticker on the meter said the last calibration date was February 20, 2007.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125

Description: Failure of a C licensed operator to operate the plant five days per week. The facility must be operated a minimum of five days a week by the chief operator or an operator with a class C wastewater treatment license or higher.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to properly operate and maintain the clarifier. At the time of the investigation there was a 7 foot sludge blanket in the clarifier out of a total depth of ten feet. The clarifier was half covered with rising sludge and the fiberglass weirs were covered with algae. The sludge blanket in the clarifier should be maintained at a depth no more than 25% of the total depth of the clarifier.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)  
30 TAC Chapter 317 317.7(i)

Description: Failure to provide documentation that the Reduced Pressure Zone (RPZ) backflow prevention device was tested and certified as operative. The RPZ backflow device must be tested and certified as operative at least annually.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(11)(B)

Description: Failure to maintain the required sludge management records. At the time of the inspection, no sludge records were available for review including the Toxicity Characteristic Leaching Procedure (TCLP) results, Annual Sludge Report, and monthly sludge hauling records. The TLCP must be analyzed once during the term of the permit. The Annual Sludge Report must be submitted to the TCEQ regional office and the Enforcement Division's Water Quality Compliance Monitoring Team by September 1 of each year.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to maintain monitoring and quality control records for chlorine, pH, and DO analyses. At the time of the investigation the records for calibration and maintenance of pH, chlorine and dissolved oxygen equipment were not available.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
30 TAC Chapter 305, SubChapter F 305.125(11)(C)

Description: Failure to submit sludge DMRs for 2006, 2007, and 2008. The Annual Sludge Report must be submitted to the TCEQ regional office and the Enforcement Division's Water Quality Compliance Monitoring Team by September 1 of each year.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to properly operate and maintain the aeration basin. The settleable solids were 86% and the mixed liquor total suspended solids (MLTSS) was 8300 MG/L. The solids levels in the aeration basin are higher than the recommended levels.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)  
30 TAC Chapter 30, SubChapter J 30.350(d)

Description: Failure to have a licensed operator operate the collection system. 30TAC 30.350 (n) states "each classified wastewater collection system must employ at least one licensed operator who holds a license class equal to or higher than that category of system".

Date: 12/31/2009 (929179) CN600682371

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 03/25/2010 (794346) CN600682371

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to provide an operative alarm on the lift station at the wastewater treatment plant. An operative visual or audible alarm is required on all lift stations to prevent unauthorized discharges of raw sewage.



Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to provide the required number of operational blowers. At the time of the inspection only one blower was present. A back up blower must be provided in case of failure.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to properly operate and maintain the clarifier. At the time of the investigation there was a 7 foot sludge blanket in the clarifier out of a total depth of ten feet. The clarifier was half covered with rising sludge and the fiberglass weirs were covered with algae. The sludge blanket in the clarifier should be maintained at a depth no more than 25% of the total depth of the clarifier.		
Date:	12/31/2010 (910489)	CN600682371	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2011 (960686)	CN600682371	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/16/2011 (936949)	CN600682371	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to provide the required number of operational blowers. At the time of the inspection only one blower was present. A back up blower must be provided in case of failure.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8) O.R., pg. 9, No. 1 PERMIT		
Description:	Failed to test the reduced-pressure backflow prevention assembly (RPBA) as required.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.3(e)(5)		
Description:	Failed to provide the required alarm system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) O.R., pg. 9, No. 1 PERMIT		
Description:	Failed to properly maintain the clarifier.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(c)		
Description:	Failed to provide a standby pump at the lift station.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.3(a)		
Description:	Failed to secure the lift station in an intruder resistant manner.		
Self Report?	NO	Classification:	Moderate
Citation:	P.C., pg. 7, No. 2(g) PERMIT TWC Chapter 26 26.121		
Description:	Failed to prevent the unauthorized discharge of wastewater.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) E.L.&M.R., pg. 2, No. 1 PERMIT		
Description:	Failed to maintain compliance with the permitted effluent limits.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) E.L.&M.R., pg. 2, No. 6 PERMIT		
Description:	Failed to maintain compliance with the permitted effluent limits.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		

M.&R.R., pg. 5, No. 5 PERMIT

Description: Failed to ensure flow measurement accuracy.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 E.L.&M.R., pg. 2, No. 4 PERMIT

Description: Failed to prevent the discharge of floating solids from the wastewater treatment plant.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 M.&R.R., pg. 4, No. 1 PERMIT

Description: Failed to accurately complete the discharge monitoring reports (DMRs).  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failed to maintain the wastewater treatment plant (WWTP) fence.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 30 TAC Chapter 317 317.6(b)(1)(E)

Description: Failed to properly maintain the chlorination room.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)  
 E.L.&M.R., pg. 2, No. 1 PERMIT

Description: Failed to collect effluent samples at the required frequency.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF KENDLETON  
RN102844412**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-0932-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Kendleton ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a waterwater treatment facility at approximately 1,500 feet east of the intersection of Farm-to-Market Road 2219 and United States Highway 59, and 1,000 feet south of U.S. Highway 59 in Fort Bend County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 16, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Ten Thousand Six Hundred Fifty-Seven Dollars (\$10,657) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Sixty-One Dollars (\$361) of the administrative penalty and Two Thousand One Hundred Thirty-One Dollars (\$2,131) is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eight Thousand One Hundred Sixty-Five Dollars (\$8,165) of the administrative penalty shall be payable in 23 monthly payments of Three Hundred Fifty-Five Dollars (\$355) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Respondent to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010996001, Effluent Limitations and Monitoring Requirements No. 6, as documented during a record review conducted on

March 27, 2012. Specifically, the Respondent reported a dissolved oxygen grab sample concentration value of 3.98 milligrams per liter ("mg/L") for the monitoring period ending July 31, 2011. The dissolved oxygen grab sample concentration minimum permitted limit is 6 mg/L.

2. Failed to submit the monthly discharge monitoring reports ("DMRs") for the monitoring periods ending September 30, 2011, October 31, 2011, November 30, 2011, and December 31, 2011, and the quarterly DMR for the monitoring period ending December 31, 2011, in violation of 30 Tex. Admin. Code §§ 305.125(17) and 319.1 and 319.7(d) and TPDES Permit No. WQ0010996001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on March 27, 2012.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Kendleton, Docket No. 2012-0932-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DMRs, in accordance with TPDES Permit No. WQ0010996001; and
    - ii. Submit all delinquent DMRs for the monitoring periods ending September 30, 2011 through December 31, 2011, in accordance with TPDES Permit No. WQ0010996001. The reports shall be submitted to:

Compliance Monitoring Team (MC 224)  
Enforcement Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 2.c., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.; and
- c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010996001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pamela Manley  
For the Executive Director

2/18/14  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

D. J. H.  
Signature

9-10-2013  
Date

Darryl Humphrey Sr.  
Name (Printed or typed)  
Authorized Representative of  
City of Kendleton

Mayor  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.